

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 18, 2015

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 18, 2015 at 1:35 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair; Carol Neugent, Vice Chair; John Dailey; David Foster; Bill Johnson; John McKay Jr.; Debra Miller Stevens (Out @ 1:57 p.m.); M.S. Mitchell; Bill Ramsey; Lowell E. Richardson and Chuck Warren. David Dennis; Joe Johnson and Don Klausmeyer were absent. Staff members present were: John Schlegel, Director; Bill Longnecker, Senior Planner; Kathy Morgan, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the May 7, 2015 MAPC meeting minutes.

MOTION: To approve the May 7, 2015 Planning Commission minutes.

MCKAY moved, RICHARDSON seconded the motion, and it carried (10-0-1).

B. JOHNSON – Abstained.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00005: One-Step Final Plat – SLADE’S SECOND ADDITION**, located south of 55th Street South, east of Meridian.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department has requested the applicant extend sanitary sewer (laterals). In-lieu-of-assessment fees are due on water transmission and sewer main. A No Protest Agreement for future extension of water is needed.
- B. The applicant shall contact City of Wichita Environmental Health to find out what tests may be necessary and what standards are to be met for approval of on-site water. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Surveying advises the benchmark description for the Site "SBM-1" needs a more defined location with respect to the proposed plat. Said benchmark should also be shown graphically on the final plat.

- E. County Surveying recommends adding a reference to the west line of the east half of the northeast quarter of the northwest quarter of Section 30, Township 28 South, Range 1 east on the face of the plat.
- F. County Surveying recommends revising the legend on the final plat to match what is shown.
- G. County Surveying advises the recording data for the contingent street dedication over Lots 2 and 3, Block A, "Slade's First Subdivision", Sedgwick County, Kansas (Film 442, Page 213) needs to be shown on the final plat.
- H. The applicant has platted a joint driveway easement and contingent street dedication which shall be relabeled as a "joint access easement and contingent dedication" and referenced in the plat's text as follows: "The contingent dedication shall become effective if the City of Wichita determines a need for such dedication."
- I. The joint access easement and contingent dedication shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- J. Language in the plat's text regarding the proposed joint driveway and contingent street dedication benefiting Lots 2 and 3, Block A of Slade's First Subdivision should be removed, as future developments would also benefit from a future public street.
- K. City Stormwater Management has approved the drainage plan.
- L. Access controls need denoted on the face of the plat as referenced in the plat's text.
- M. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The plat's text shall include reference to "a lot and a block" in the owner's certificate.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Westar Energy advises that Brian Ward, the Southwest Area Construction Services Representative, will be the contact for this project. He can be reached at 316-261-6859 with questions and information or to start this project when the time comes. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- X. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

CHAIR GOOLSBY announced that the item has been deferred to the July 9, 2015 Planning Commission Meeting.

2-2. SUB2015-00006: Revised One-Step Final Plat – HARBOR ISLE 4TH ADDITION,
located east side of Meridian, north of 45th Street North (extended).

NOTE: This is an unplatted site located within the City of Wichita in addition to a portion of Harbor Isle 3rd Addition.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer services are available to serve the site. Transmission and distribution fees are due on water.
- B. Environmental Health Division advises that if the recreational facilities in the reserves include restrooms, the appropriate sanitary treatment arrangements will be needed, either pump out sumps, septic system and field, or connection to sanitary sewer. Any wells installed on the property will have to be properly permitted and inspected.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. The plat denotes complete access control along Meridian. Traffic Engineering has approved the access controls.
- E. As the plat consists of commercial lots abutting a non-arterial street, the Subdivision regulations require a sidewalk along the Driftwood street frontage. A guarantee shall be submitted or a Sidewalk Certificate in lieu of a guarantee may be provided. The applicant will be providing a restrictive covenant which limits the property to SF-5 uses, which negates the requirement for a Sidewalk Certificate.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Subdivision regulations discourage the inclusion of pipeline easements within residential lots. It is recommended that the pipeline crossing the plat be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement.
- I. County Surveying has contacted the plat surveyor and all comments have been addressed and corrected.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platator's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.

- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy advises that Heide Bryan, Subdivision Representative, will be the contact for this project. She can be reached at 316-261-6554 with questions and information or to start this project when the time comes. Any and all relocation and removal of any existing equipment made necessary by this plat will be at the applicant's expense.
- S. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **FOSTER** seconded the motion, and it carried (11-0).

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- 2-3. SUB2015-00010: Final Plat – SPRING ACRES ESTATES ADDITION**, located on the south side of 21st Street North, on the west side of 327th Street West.

NOTE: This is unplatted property located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. This final plat consists of the north portion of the overall preliminary plat approved for the site and represents the first phase of development. The plat is consistent with the preliminary plat in regards to lot configuration and street layout.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells.
- B. The plat denotes a lot under the two-acre minimum lot size requirement for the RR district. The zoning code permits a reduction in lot area for Lot 5, Block A due to the 21st Street North dedication of right-of-way.
- C. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Metropolitan Area Building and Construction Department to assure the availability of an adequate, safe supply of water that does not impair existing water rights.
- D. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- E. County Public Works has requested revisions to the drainage plan. A Notice of Intent and a stormwater permit are needed. The applicant proposes a temporary stormwater treatment facility in an off-site location. The applicant and County need to meet to discuss proper covenants and easements required to manage the temporary facility and guarantee its relocation to the permanent location. The plat shall include minimum building pad elevations for the lots in Block C.
- F. County Public Works has approved the access controls. The plat proposes three openings along 21st Street North which includes two street openings; and complete access control along 327th Street West.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. The applicant shall guarantee the installation of the interior streets to the standard suburban gravel streets.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- L. County Surveying advises that 1407.00 feet on the last line of the legal description needs revised to 733.44.
- M. "Wichita, Sedgwick County" shall be replaced with "Sedgwick County" in the plat's text.
- N. GIS has approved the plat's street names.
- O. County Surveying has contacted the plat surveyor and all comments have been addressed and corrected.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. This plat is outside the Westar Service Territory but has Westar transmission lines along or near the plat. Westar Transmission Engineering area has contacted the agent for the applicant for construction plans and with other information. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- X. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **FOSTER** seconded the motion, and it carried (11-0).

2-4. SUB2015-00016: Final Plat – MONARCH LANDING COMMERCIAL ADDITION, located on the northwest corner of 21st Street North and 159th Street East.

NOTE: The site has been approved for a zone change (ZON2006-00045) from SF-5 Single-Family Residential to LC Limited Commercial. The Monarch Landing Community Unit Plan (CUP2006-00046, DP-303) was also approved for the site.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that water and sewer are available. Transmission and distribution fees are due on water. Lateral fees are due on sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. The plat proposes five access openings along 21st Street North including two rights-in/out openings and two access openings along 159th Street East. Traffic Engineering has approved the access controls. The applicant is reminded that the right-in/right-out openings need to have one-way signs placed on the median per the Manual on Uniform Traffic Control Devices (MUTCD).

- E. In accordance with the CUP, the applicant shall guarantee construction of left turn center lanes to all major entrances and decel lanes into all major entrances.
- F. As the plat consists of commercial lots abutting a non-arterial street, the Subdivision Regulations require a sidewalk along Flutter Lane. A guarantee shall be submitted or a Sidewalk Certificate in lieu of a guarantee may be provided which states that the sidewalk will be installed within 30 days of a connecting sidewalk being placed on the north of Flutter.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The Applicant needs to request a CUP adjustment as the CUP parcel boundaries do not correspond with the area being platted.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Monarch Landing Community Unit Plan (CUP2006-00046, DP-303).
- J. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- K. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- L. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- M. The plat's text shall reference, "an addition to Wichita, Sedgwick County, Kansas".
- N. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted and inspected.
- O. County Surveying has contacted the plat surveyor and all comments have been addressed and corrected.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- R. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- S. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- X. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **FOSTER** seconded the motion, and it carried (11-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2015-00018: City request to vacate a portion of a platted utility easement on property,** generally located midway between Webb and Greenwich Roads, south of Harry Street, west of Smithmoor Street on the south end of Countryside Circle.

OWNER/APPLICANT: Dan & Katie Harmon (owners/applicants)

LEGAL DESCRIPTION: Generally described as vacating the 10 feet of the platted 20-foot wide utility easement located on Lot 30, Block 1, Smithmoor First Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between Webb and Greenwich Roads, south of Harry Street, west of Smithmoor Street on the south end of Countryside Circle (WCC #II)

REASON FOR REQUEST: Room addition

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential (SF-5) zoned properties.

The applicants propose to vacate the south 10-foot half of the of the platted 20-foot utility easement, split in half by the common interior property line of Lot 30 (subject property) and Lot 29, all in Block 1, Smithmoor First Addition. The subject easement also abuts a platted 20-foot utility easement located on its west side, which has a sewer line located in it, and Countryside Circle, a public street, on the east. The vacation request will not impact the sewer line. The vacation request will not encroach into the Unified Zoning Code's SF-5 Single-Family Residential zoned 6-foot interior side yard setback. There are no utilities located in the subject easement. The Smithmoor First Addition was recorded with the Register of Deeds September 23, 1986.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of a platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- 1) Vacate the south 10-foot half of the of the platted 20-foot utility easement located in Lot 30, Block 1, Smithmoor First Addition.
- 2) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

- 3) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the south 10-foot half of the of the platted 20-foot utility easement located in Lot 30, Block 1, Smithmoor First Addition.
- (2) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (3) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

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- 3-2. VAC2015-00019: City request to vacate a platted alley,** generally located between Emporia - 3rd Street - St Francis -2nd Street.

APPLICANT/AGENT: Wichita High LLC, Marketplace Properties LLC, United Methodist Open Door, Chestnut Properties, Pixius Communications LLC, Coordinated Systems & Supplies Inc, David Burke, and Deborah J & David Burke (applicants)

LEGAL DESCRIPTION: Generally described as vacating the platted 20-foot wide alley abutting Lots 65-43 (odd, Emporia Avenue side), Lots 66-44 (even, was Fourth Avenue now St. Francis Avenue side), the north side of 2nd Street, the south side of 3rd Street, all in the JR Mead Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between Emporia Avenue - 3rd Street - St Francis Avenue -2nd Street (WCC VI)

REASON FOR REQUEST: Future development

CURRENT ZONING: The subject site is platted alley right-of-way. All abutting and adjacent properties are zoned CBD Central Business District (CBD)

The applicant is requesting the vacation of the paved, platted 20-foot wide alley right-of-way (ROW), abutting Lots 65-43 (odd, Emporia Avenue side), Lots 66-44 (even, was Fourth Avenue now St. Francis Avenue side), the north side of 2nd Street, the south side of 3rd Street, all in the JR Mead Addition. There is a sewer line and manholes, stormwater equipment and power poles and lines located in the alley. No property will be denied access to public street right-of-way if the vacation is approved. All of the abutting property owners have signed the application/petition to vacate the alley. The JR Mead Addition was recorded with the Register of Deeds September 26, 1870.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted alley.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted alley and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Dedicate a 20-foot wide utility-drainage easement by separate instrument, for the length of the platted vacated alley, prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Provide restrictive covenants (with original signatures) binding and tying the vacated described alley right-of-way to the abutting properties. This will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (3) Provide a legal description of the vacated alley ROW, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.

- (4) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all franchise utilities and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate a 20-foot wide utility-drainage easement by separate instrument, for the length of the platted vacated alley, prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Provide restrictive covenants (with original signatures) binding and tying the vacated described alley right-of-way to the abutting properties. This will go with the Vacation Order to City Council for final action and subsequent recording with the Register of Deeds and the Appraiser's Office.
- (3) Provide a legal description of the vacated alley ROW, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sewer lines and manholes, stormwater equipment, all franchise utilities and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action.
- (5) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County

Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

- **3-3. VAC2015-00020: City request to vacate a portion of platted access control,** on property generally located midway between 13th and 21st Street North on the west side of 159th Street East.

APPLICANT/AGENT: Timothy J Buchanan Revocable Trust (applicant/owner) Baughman Company, PA, c/o Phil Meyer (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of the south 404.41 feet of the platted complete access control of Reserve C, the Ranch Addition to permit two drives onto 159th Street East off of Lot 33, Block A, the Ranch Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 13th and 21st Streets North on the west side of 159th Street East (WCC II)

REASON FOR REQUEST: To allow two driveS onto 159th Street East

CURRENT ZONING: The site and all abutting west and north properties are zoned SF-5 Single-family Residential (SF-5). Abutting south property is a rails to trails zoned SF-20 Single-Family Residential (SF-20). Adjacent east property, across 159th Street East, is located in the city of Andover, Butler County

The applicant proposes to vacate the platted access control along the south 404.41 feet of Reserve C, the Ranch Addition to permit two drives onto 159th Street East off of the 6.1-acre Lot 33, Block A, the Ranch Addition. As platted this portion of Reserve C is permitted one drive onto 159th Street East. As platted this portion of Reserve C is owned by a Home Owners Association (HOA). The owners of Reserve C (HOA) and Lot 33, Block A, all in the Ranch Addition have signed the application/petition. 159th Street East is a County/Township paved two-lane arterial at this location. Basswood Drive, a public street located in a residential subdivision in the city of Andover, is located across 159th Street East from the north portion of Reserve C; there are no other points of access onto 159th Street East from east side of 159th. The current Subdivision standard for a right-in – right-out drive is 200 feet between drives or arterial intersections and 400 feet between full movement drives or arterial intersections. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the

MAPC. There may be hydrants, water lines and valves located in the area of the vacation. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described area of the vacation request. The Ranch Addition was recorded with the Register of Deeds December 13, 2013.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of platted complete access control.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2015, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion platted complete access control and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control to allow one additional drive onto 159th Street East along the south 404.41 feet of Reserve C, the Ranch Addition for Lot 33, Block A, the Ranch Addition. Provide a dedication of access control allowing two drives, with original signatures, to Planning Staff prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Westar has utilities located in the area of the vacation request. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (4) Westar has utilities located in the area of the vacation request and will need an easement to cover those utilities. Provide any needed easement for Westar. Provide Planning with Westar's approval prior to the case going to Council for final action.

- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the approval of the Traffic Engineer, vacate the platted complete access control to allow one additional drive onto 159th Street East along the south 404.41 feet of Reserve C, the Ranch Addition for Lot 33, Block A, the Ranch Addition. Provide a dedication of access control allowing two drives, with original signatures, to Planning Staff prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted complete access control on a Word document, via e-mail, to be used on the Vacation Order. This must be provided prior to the request proceeds to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Westar has utilities located in the area of the vacation request. Provide all needed plans for review and approval by utilities. Provide Planning with any plans as approved by the utilities. This must be provided to Planning prior to the case going to Council for final action.
- (4) Westar has utilities located in the area of the vacation request and will need an easement to cover those utilities. Provide any needed easement for Westar. Provide Planning with Westar's approval prior to the case going to Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

- 3-4. **VAC2015-00021: City request to vacate a platted easement**, on property located on the northeast corner of Webb Road and Kellogg Street.

OWNER/AGENT: Costco Wholesale (owner) Olsson Associates c/o Brett Lauritsen (agent)

LEGAL DESCRIPTION: Generally described as vacating the west 164 feet of the platted east-west 20-foot wide utility easement beginning where it abuts Webb Road and the platted curved north-south 10-foot wide utility easement from where it abuts Webb Road to its intersection with the noted platted east-west 20-foot wide utility easement, all in Lot 1, Block 1, Costco Wholesale Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the northeast corner of Webb Road and Kellogg Street (WCC #II)

REASON FOR REQUEST: Relocation of utilities

CURRENT ZONING: The site and the abutting north and east properties are zoned LI Limited Industrial (LI). Adjacent west and south properties (across Webb Road and Kellogg Street) are zoned LC Limited Commercial (LC) and GC General Commercial (GC).

The applicant proposes to vacate the west 164 feet of the platted east-west 20-foot wide utility easement beginning where it abuts Webb Road and the platted curved north-south 10-foot wide utility easement from where it abuts Webb Road to its intersection with the noted platted east-west 20-foot wide utility easement, all in Lot1, Block 1, Costco Wholesale Addition. The vacation is part of the relocation of utilities. The applicant has a proposed easement to cover the relocated utilities. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the subject easement. The Costco Wholesale Addition was recorded with the Register of Deeds November 26, 2014.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted utility easements.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2015, which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by vacating the described portions of platted utility easements and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- 1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- 2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- 3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- 4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide Planning with any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

RAMSEY moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: CON2015-00020** - Three Angels Seventh-Day Adventist Church (owner/applicant) requests a City Conditional Use request for a 100-foot FM radio tower on LC Limited Commercial zoned property described as:

Lot 1, Three Angels Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant, Three Angels Seventh-Day Adventist Church, is seeking a Conditional Use to permit the construction of a 100-foot tall, lattice tower and equipment for a FM radio broadcast system on the LC Limited Commercial zoned west portion of their 9.78-acre property; Lot 1, Three Angels Addition. The “Wireless Communication Master Plan” (WCMP) defines a FM/AM radio broadcast system as a wireless communication facility. The WCMP allows administrative permits on LC zoned properties for new undisguised ground-mounted wireless communication facilities of up to 120 feet in height that comply with the compatibility height standards of the “Unified Zoning Code” (UZC) and are designated on the “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map.” The applicant’s site plan shows the facility to comply with the UZC’s compatibility height standards. Because the site is not shown on the Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map, a Conditional Use request is required. The site is not located within an “Airport Hazard Zone Area.” However the property located on the northwest corner of 45th Street North and Hydraulic Avenue is located within Airport Hazard Zone D, which allows a 300-foot maximum height for new undisguised ground-mounted wireless communication facilities. This close proximity to an Airport Hazard Zone D area would seem to indicate that the proposed 100-foot height of the lattice tower is not going to be a problem.

The LC zoned portion of the site is located on the southeast corner of Hydraulic Avenue and 45th Street North. The applicant’s site plan shows the LC zoned portion of the applicant’s site developed with two existing stand-alone buildings used for a private/parochial school, a church/multi –purpose area, and a sanctuary. The site plan also shows existing paved parking and an outdoor playground and basketball court. The site plan shows the proposed FM/AM facility located on the southeast side of their existing multi-purpose building and sanctuary. This location will place the facility approximately 365 feet south of 45th Street North, and approximately 121 feet north of Kansas State Highway 254 (K-254). The applicant’s site has access onto 45th Street North. Access to the facility is through the site’s paved parking and internal circulation. The SF-5 zoned portion of the site is not developed.

The K-254 – I-135 interchange dominates the area west of the site, with a narrow strip of undeveloped LI Limited Industrial (LI) zoned land located between the interchange and Hydraulic Avenue. A two-story apartment complex (built 2003), a single-family residential subdivision (built 2008-2015), three large lot/tract single-family residences (built 1965, 1976 and 1998) and undeveloped land are located north of the site, across 45th Street North, in Park City. SF-20 Single-Family Residential (SF-20) and SF-5 zoned large tract/lot residences (built 1919, 1974 and 1986) and farm land are located northeast of the site, across 45th Street North. A partially developed SF-5 zoned single-family subdivision is also located northeast of the site, across 45th Street North. K-254 separates the south side of the site from SF-5 zoned farmland (residence built 1920) and GI General Industrial (GI) zoned land developed with oil/gas storage tanks and equipment. K-254 and SF-5 zoned farmland are located east of the site.

The applicant has provided a map showing three towers within a one-mile radius of the site and another tower (the Journal Broadcasting tower) located just over a mile southwest of the site. The applicant has also provided a letter stating that lattice guy-wired American tower (more or less 300-feet tall) located less than a half-mile north of the site (west side of Hydraulic Avenue and in Park City) has not responded to the applicant's co-location inquiries. The K-DOT lattice tower located approximately one-mile east-northeast of the site has told the applicant that they are primarily a tower for state and local government agencies to use. The response from K-DOT is consistent with the information K-DOT provided in the past to staff. The applicant has not provided information about the monopole tower located less than a mile south of the site, off of 37th Street North and Hydraulic Avenue. The applicant has identified the three lattice guy-wired towers located over a mile west of the site, off of Old Lawrence Road and north of 37th Street North and I-235. The applicant did not identify two USD 259 towers located a mile straight south of the site. Staff found no case history on any of these towers. Even with co-location on these towers the applicant would still need to build a tower and equipment on their site to receive and broadcast from their site; the site is the origin of the broadcast.

Wireless communication providers are particularly encouraged to seek large park areas (but not limited to) for the new locations for new facilities. The Public Bridgeport soccer fields are located over a mile and a quarter from the site and is not considered an option by the applicant, as they would still need to build a tower and equipment on their site to receive and broadcast from their site.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses no hazard to air navigation or interferes with other radio/communication frequencies; this must be provided to staff prior to building permits being issued. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed 100-foot tower will be designed for co-location for at least two (2) other providers.

CASE HISTORY: The Three Angels Addition was recorded with the Register of Deeds August 14, 2001.

ADJACENT ZONING AND LAND USE:

NORTH: Park City, SF-20, SF-5 Undeveloped land, two-story apartment complex, single-family residences

SOUTH: K-254, SF-5, GI State highway, farm land, oil/gas storage and equipment

EAST: LI, K-254 – I-135
WEST: K-254,

Undeveloped land, state highway – interstate highway interchange
State highway, farmland

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has paved access to 45th Street North, a paved two-lane arterial street at this location. The proposed wireless communication facility and its 100-foot tall tower will generate less traffic onto 45th Street North than any of the non-residential and residential uses in the area.

CONFORMANCE TO PLANS/POLICIES: The “2013 Land Use Guide of the Comprehensive Plan” (Plan) identifies the LC zoned site as “major institutional.” The major institutional category includes institutional uses of a significant size and scale of operation and includes such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical facilities. The site’s LC zoning is appropriate for the major institutional category. The UZC considers a wireless communication facility a commercial type of use.

The WCMP allows administrative permits on LC zoned properties for new undisguised ground-mounted wireless communication facilities of up to 120 feet in height that comply with the compatibility height standards of the UZC and are designated on the Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map. The applicant’s site plan shows the facility to comply with the UZC’s compatibility height standards. Because the site is not shown on the Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map, a Conditional Use request is required. The site is not located within an Airport Hazard Zone Area.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the tower meeting the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 100-foot lattice tower is not the first tower in the general area, as there are +/- 300-foot tall lattice guy-wired towers, a K-DOT lattice tower, and a monopole tower located approximately a mile from the site as well as another +/- 300-foot tall lattice guy-wired tower located approximately one-half mile north of the site; 2) Minimize the height, mass, or proportion. As shown on the applicant’s photographs of a similar tower, the proposed 100-foot tower provides a slimmer, less obtrusive profile than the area’s other towers; 3) Minimize the silhouette. Monopoles and certain lattice type structures (think City microwave towers) are recommended for up to 150-feet, with antennas mounted flush to the support structure over triangular antenna arrays. The applicant’s proposed tower more closely resembles City microwave lattice towers; 4) Use colors, textures, and materials that blend in with the existing environment. The lattice tower will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. A church steeple or cross disguises were mentioned to the application; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The site has existing trees along the south side of the site and its placement on the southeast corner of the existing buildings provide some cover for the 100-foot tall lattice tower. Planting large evergreens and solid screening could provide cover from the ground up to 20-40 feet; 7) Be placed on walls or roofs of buildings. The proposed tower is placed behind existing buildings, which provides additional screening for the nearest residences

located approximately 460 feet north of the proposed facility/tower ; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

RECOMMENDATION: Based on the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 100-foot tall lattice tower pose no hazard to air navigation or interferes with other radio/communication frequencies; Form FAA 7460-1 Notice of Proposed Construction or Alteration. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- B. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- C. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- D. The support structure shall be a lattice tower design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- E. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least four (4) wireless service providers.
- F. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 5-foot when mature and planted on 15-foot centers. The site plan must identify all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide Public Works and the MABCD with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The LC zoned portion of the site is located on the southeast corner of Hydraulic Avenue and 45th Street North. The K-254 – I-135 interchange dominates the area west of the site, with a narrow strip of undeveloped LI Limited Industrial (LI) zoned land located between the interchange and Hydraulic Avenue. A two-story apartment complex (built 2003), a single-family residential subdivision (built 2008-2015), three large lot/tract single-family residences (built 1965, 1976 and 1998) and undeveloped land are located north of the site, across 45th Street North, in Park City. SF-20 Single-Family Residential (SF-20) and SF-5 zoned large tract/lot residences (built 1919, 1074 and 1986) and farmland are located northeast of the site, across 45th Street North. A partially developed SF-5 zoned single-family subdivision is also located northeast of the site, across 45th Street North. K-254 separates the south side of the site from SF-5 zoned farmland (residence built 1920) and GI General Industrial (GI) zoned land developed with oil/gas storage tanks and equipment. K-254 and SF-5 zoned farmland are located east of the site. There are three towers within a one-mile radius of the site and another tower (the Journal Broadcasting tower) located just over a mile southwest of the site. Most of these towers are +/- 300-foot lattice guy-wired towers that have been in the area for some time; staff could find no case history on this tower. Even with co-location on these towers the applicant would still need to build a tower and equipment on their site to receive and broadcast from their site; the site is the origin of the broadcast.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and SF-5. The LC portion of the site is currently developed with two existing stand-alone buildings used for a private/parochial school, a church/multi –purpose area, and a sanctuary. The site also has existing paved parking and an outdoor playground and basketball court. The SF-5 zoned portion of the site is not developed. The site could be developed for many commercial uses by right or continue to be used, by right, as a religious-educational complex.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 100-foot tall, wireless, galvanized steel, lattice tower would not be the first in the general area of a radius of one-mile. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. The proposed 100-foot tall lattice tower does not resemble the area's existing +/- 300-foot tall lattice guy-wired towers, but more closely resembles the City of Wichita's lattice towers, especially those placed along-side the City's fire stations.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The 2013 Land Use Guide of the Comprehensive Plan identifies the LC zoned site as major institutional. The major institutional category includes institutional uses of a significant size and scale of operation and includes such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals and medical facilities. The site's LC zoning is appropriate for the major institutional category, as it allows by right most of the types of uses listed above. The UZC considers a wireless communication facility a commercial type of use.

The WCMP allows administrative permits on LC zoned properties for new undisguised ground-mounted wireless communication facilities of up to 120 feet in height that comply with the compatibility height standards of the UZC and are designated on the Properties Eligible for an

Administrative Permit for a Wireless Communication Facility Map. The applicant's site plan shows the facility to comply with the UZC's compatibility height standards. Because the site is not shown on the Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map, a Conditional Use request is required. The site is not located within an Airport Hazard Zone Area.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER clarified Condition E. that there were two (2) other providers.

RICHARDSON asked about strobes and painting the tower red and white and how that determination is made.

LONGNECKER said the FAA makes the determination and the applicant provides that information to staff prior to issuance of a building permit.

RICHARDSON asked if the Commission had input on that.

LONGNECKER stated that it was a public safety issue and the FAA will make the recommendation.

MOTION: To approve subject to Staff recommendation.

B. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (11-0).

NON-PUBLIC HEARING ITEMS

CHAIR GOOLSBY mentioned drafting a letter to the County Commission to explain the Commission's action regarding dissolving the Board of Zoning Appeals into a County BZA and City BZA. He asked Commissioners for direction and a few points they would like to see included in the communication.

NEUGENT said her concern was use of the term "consolidation" which she believes has a negative connotation.

GOOLSBY mentioned the Commission doesn't see it as people in the City telling the County what to do, that we are all residents of Sedgwick County.

RICHARDSON said that was the point, they are all residents of Sedgwick County and pay the same amount of taxes. He said excluding a major portion of the tax base from the decision making seems to be flawed. He said the City is an artificial boundary; everyone lives in Sedgwick County and pays County taxes.

FOSTER said staff reported that there were less than three (3) County BZA cases per year over the last decade, so he had a question about the inefficiency of setting up a separate body to hear County cases.

GOOLSBY mentioned that the joint BZA Board's purpose is not for consolidation but collaboration and consensus.

MILLER STEVENS asked if there were specific reasons why the decision was made and if the Planning Commission correspondence addressed those.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR said he believed Commissioner Ranzau raised the point as to whether or not City appointees should be weighing in on County cases. He said the County Commission also felt that there were not that many County cases to make a difference. He said he would have to go back and review the minutes.

MILLER STEVENS said she felt the Planning Commission should address those items.

NEUGENT asked if someone has talked to the County Commissioners.

GOOLSBY said he understood some of the Planning Commissioners have had discussion with them.

MILLER STEVENS said she has had discussion, but she is not the Chairman of the Planning Commission. She said she believed there should be some conversation before the Planning Commission starts writing letters. She mentioned that this is conflict resolution 101.

GOOLSBY said a letter is more formal and that was the direction the Planning Commission gave him.

PARNACOTT clarified that there was nothing to resolve because the County Commission has already taken the necessary action needed to dissolve the joint BZA and create a separate County BZA. He said the item brought to the Planning Commission was about changing the UZC to correct the definition of the term "Board of Zoning Appeals" so that it reflected the new reality. He said the Planning Commission, by a vote of 7-5, voted that the definition in the Code be left "as is". He said that has no legal impact and the County is still going to go forward with a separate County BZA. He said he understood the letter was to clarify the Planning Commission's reasons or thoughts on the matter. He said the feeling he is getting from that discussion and today's discussion is that the majority of the Planning Commission feels that the earlier action to separate the BZA should be rescinded by the County Commission. He said you can certainly make that statement in the letter to give the County Commission some guidance as to why the Planning Commission voted the way it did.

GOOLSBY asked Mr. Parnacott if he wanted to draft the letter. He added that there is no conflict resolution; this is a message of why the Planning Commission voted the way it did.

PARNACOTT suggested the Planning Commission take a vote for the Chair to draft a letter consistent with today's comments.

NEUGENT asked for clarification of Chairman Ranzau's comments on the issue.

PARNACOTT said he believed Commissioner Ranzau expressed concern about City appointees making decisions on cases out in the unincorporated areas of Sedgwick County. As an example, he mentioned the recent wedding venue case located out in the County and that a large number of the County appointees were absent from that Planning Commission meeting. He said the minutes of that meeting are available on line.

NEUGENT said as a County appointee who does not live in the unincorporated area of the County, she has way more opportunity to comment on City cases.

MCKAY asked for clarification of the issue.

PARNACOTT briefly summarized the background on the Planning Commission's vote on amending the Zoning Code to match the reality of two separate BZA boards. He said the County Commission has one of three options: 1) accept the Planning Commission's recommendation; 2) Override the Planning Commission's recommendation; or 3) send it back to the Planning Commission for further review.

FOSTER commented that the case used as an example was not a BZA case but a PUD case heard by the Planning Commission. He asked about the City Council's response.

PARNACOTT stated since this was an amendment to the joint Zoning Code, both governing bodies would have to approve it. However, he said there was a provision in the Code that if one governing body approves the change and the other governing body does not, the change will be effective in whatever jurisdiction approved it. He said from a legal perspective, technically they would have two different definitions, one that would apply in the City and one that would apply in the County.

DIRECTOR SCHLEGEL said we will just have to wait and see what the City Council does.

FOSTER said he is comfortable with the motion as made and thinks it is premature to add any thought that might affect this joint body.

MILLER STEVENS (Out @ 1:57 p.m.)

MOTION: That the Chair draft a letter to the County Commission that was consistent with today's comments.

NEUGENT moved, **B. JOHNSON** seconded the motion, and it carried (9-1). **DAILEY** – No.

DIRECTOR SCHLEGEL reported that staff has received direction from the County Commission to work on an amendment to the UZC that would eliminate the Zoning Areas of Influence (ZAI). He said the Advance Plans Committee will discuss the issue on Thursday, July 9, 2015 at 7:35 a.m. He said the text amendment will be heard at a public hearing by the full Planning Commission on Thursday, July 23, 2015 at 1:30 p.m. He said the reason he was bringing it to the Commissioners attention is that there will probably be some protests from the cities impacted by the change.

RICHARDSON asked for further clarification of the issue. He said he understood that this will eliminate everything except what is actually within each of the City's City limits.

DIRECTOR SCHLEGEL said that is correct. He said currently under the UZC staff must present any cases that are within a City's ZAI to their Planning Commission for a recommendation. He said if the City recommends denial of the request, it takes a unanimous vote by the County Commission to overturn that action.

MCKAY asked if there had been some discussion on changing the vote needed to overturn a City recommendation.

PARNACOTT indicated that Commissioner Howell made some comments that indicated that he wasn't necessarily interested with completely doing away with ZAI, even though he voted for the motion. Commissioner Howell indicated this was a starting point for discussion and to see if there were some other alternatives. But Mr. Parnacott added that the direction he had been given by the County Commission was elimination of the ZAI.

RICHARDSON asked about the history of the ZAI's.

DIRECTOR SCHLEGEL said this goes back to when the County adopted zoning regulations for the unincorporated areas. He said prior to that time a number of City's were exercising extra-territorial zoning approvals as allowed by State Law in the unincorporated areas. He said the ZAI was created as a compromise with the City's that were not interested in giving up their extra-territorial zoning powers. He said he doesn't know of any other county in the State that uses ZAI.

RICHARDSON asked if this was empowered by State Statute.

PARNACOTT responded yes and added that the State Statute allows the County to adopt a zoning code and gives them leeway on how it is crafted. He said the County has other options other than what is specifically listed in the Statute.

DIRECTOR SCHLEGEL added that Sedgwick County's situation is a little unique because of the number of urban cities located within its boundaries. He said Johnson County has fewer, larger cities whereas Sedgwick County has one large City and many smaller cities.

MCKAY mentioned Urban Growth Boundaries.

PARNACOTT said these ideas need to be discussed at an impartial hearing to give cities a chance to respond. He said the County Commission will deal with whatever recommendation the Planning Commission makes.

RICHARDSON asked if this was the 3-mile ring.

DIRECTOR SCHLEGEL commented that the ZAI was negotiated between each city and the County.

PARNACOTT indicated that in 2007 the ZAI boundaries were renegotiated through a very lengthy process consisting of multiple meetings with numerous cities.

The Metropolitan Area Planning Commission adjourned at 2:07 p.m.

State of Kansas)
Sedgwick County) ss

I, W. David Barber, Interim Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2015.

W. David Barber, Interim Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)